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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

WAXMAN, ANDREW

ART UNIT PAPER NUMBER

2667

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,074

Applicant(s)

CURTIS, PAVEL

Examiner

Andrew M Waxman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4, 7 - 32, 34, 35, 37, 39, and 42 - 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4, 7 - 32, 34, 35, 37, 39, and 42 - 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 2, 4, 7 – 32, 34, 35, 37, 39, 42 – 59 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 2, 4, 7 – 32, 34, 35, 37, 39, and 42 – 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Nguyen et al., patent number 6,006,267, herein after referred to as Nguyen.

Regarding claims 7, 34, 35, and 42, Nguyen discloses a method, and a computer readable medium for storing the method, for automatically sensing a transmission method including transmitting at least one packet ('reachability request' see col. 6 lines 54-59) to a first host (host J) via a first transmission method (multicast), receiving a response from the first host to a packet transmitted via the first transmission method ('multicast' See col. 6 lines 60-62). Then, transmitting at least one packet ('reachability request' see col. 7 lines 4-9) to a first host (host J) via a second transmission method (unicast), receiving a response, from the first host (J), to a

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packet transmitted via the second transmission method (see col. 7 lines 8-11 and 26-45), and configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8. Nguyen further discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address. Furthermore, Nguyen discloses the response received in accordance with the second transmission method (unicast), which would inherently include a source and destination address, in order for the hosts to communicate they would inherently have to be configured using the source and/or destination address within the response.

Regarding claim 2, Nguyen further discloses configuring for communication with the first host (J) in accordance with the first transmission method (see col. 7 lines 13-19) if no response to a packet transmitted via the second method is received (see col. 7 lines 10-12 and 26-45).

Regarding claim 4, Nguyen further discloses configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8.

Regarding claims 8 and 19, Nguyen further discloses receiving no response to a packet transmitted via the second transmission protocol. See col. 7 lines 10-12 and 25-37.

Regarding claim 9, Nguyen further discloses configuring for communication with the first host in accordance with the first (unreliable multicast) transmission method. See col. 7 lines 32-35.

Regarding claim 10, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claims 11 and 46, Nguyen discloses the response received in accordance with the second transmission method (unicast) which would inherently include a source and destination address, in order for the hosts to communicate they would inherently have to be configured using the source and/or destination address within the response.

Regarding claim 12, Nguyen further discloses receiving a response to a packet transmitted via the second (unreliable unicast) transmission method. See col. 7 lines 35-40.

Regarding claim 13, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claims 14 and 49, Nguyen discloses the response received in accordance with the second transmission method (unicast) which would inherently include a source and destination address, in order for the hosts to communicate they would inherently have to be configured using the source and/or destination address within the response.

Regarding claims 15 and 16, Nguyen further discloses no response being received via the first transmission method (multicast), and configuring for communication in accordance with the second communication protocol (unicast). See col. 7 lines 26 – 45.

Regarding claim 17, Nguyen further discloses not receiving a response to a packet transmitted via the first (unreliable multicast) transmission method. See col. 6 lines 62-65.

Regarding claim 18, Nguyen further discloses configuring for communication with the first host (host J) in accordance with the first (unreliable multicast) transmission method (col. 7 lines 32-35), provided a response to a packet transmitted via the first (unreliable multicast) transmission method is received (col. 6 lines 62-65).

Regarding claim 20, Nguyen further discloses configuring for communication with the host in accordance with the first transmission method. See col. 7 lines 25 – 46.

Regarding claims 21 and 22, Nguyen further discloses the first transmission method as multicast and the second transmission method as multicast, however interchanging these is

inherent to Nguyen, because the ordering of the test would not interfere with the determination of which transmission method is possible. See col. 7 lines 18-25.

Regarding claims 23 and 24, Nguyen further discloses transmitting a predetermined ('series' see col. 6 and 7 lines 57-58 and 5-7) number of packets (messages) to the first host (host J) via the first (multicast) and the second (unicast) transmission methods until successful responses are received.

Regarding claim 25, Nguyen discloses a method for automatically sensing a transmission method including transmitting, by a first host (host I), at least one packet ('reachability request' see col. 6 lines 54-59) to a second host (host J) via a first transmission method (multicast), transmitting, by a first host (host I) at least one packet ('reachability request' see col. 7 lines 4-9) to a second host (host J) via a second transmission method (unicast), and configuring the first host (host I) for communication with the second host (host J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8. Furthermore, Nguyen discloses the response received in accordance with the second transmission method (unicast), which would inherently include a source and destination address, in order for the hosts to communicate they would inherently have to be configured using the source and/or destination address within the response.

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Regarding claim 26, Nguyen further discloses configuring the first host (host I) for communication with the second host (host J) in accordance with the first transmission method (see col. 7 lines 13-19) if no response to a packet transmitted via the second method is received (see col. 7 lines 10-12 and 26-45).

Regarding claim 27, Nguyen further discloses receiving no response to a packet transmitted via the first (multicast) transmission method. See col. 6 and 7 lines 62-65 and 29-31.

Regarding claim 28, Nguyen further discloses receiving no response to a packet transmitted via the second (unicast) transmission method. See col. 7 lines 10-12 and 36-39.

Regarding claim 29, Nguyen further discloses configuring the first host (host I) for communication with the second host (host J) in accordance with the first (unreliable multicast) transmission method. See col. 7 lines 32-35.

Regarding claim 30, Nguyen discloses implementation of the invention in a packet network (LAN Fig. 1). Configuring a host in a packet network using an available address is inherent in any packet network. Every host in a packet network must have a unique address in order for the network to function properly and ensure that there are no address conflicts. If an address is already assigned, i.e. unavailable, it would not be available for configuring any host. This, therefore is inherent to Nguyen.

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Regarding claims 31 and 32, Nguyen further discloses the first transmission method as multicast and the second transmission method as multicast, however interchanging these is inherent to Nguyen, because the ordering of the test would not interfere with the determination of which transmission method is possible. See col. 7 lines 18-25.

Regarding claim 37, Nguyen further discloses configuring for communication with the first host (J) in accordance with the first transmission method (see col. 7 lines 13-19) if no response to a packet transmitted via the second method is received (see col. 7 lines 10-12 and 26-45 and col. 9 lines 27-57).

Regarding claim 39, Nguyen further discloses configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8 and col. 9 lines 27-57.

Regarding claim 43, Nguyen further discloses receiving no response to a packet transmitted via the second transmission protocol. See col. 7 lines 10-12 and 25-37 and col. 9 lines 27-57.

Regarding claim 44, Nguyen further discloses configuring for communication with the first host in accordance with the first (unreliable multicast) transmission method. See col. 7 lines 32-35 and col. 9 lines 27-57.

Regarding claim 45, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address in order to ensure properly delivery to the intended destination. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 47, Nguyen further discloses receiving a response to a packet transmitted via the second (unreliable unicast) transmission method. See col. 7 lines 35-40 and col. 9 lines 27-57.

Regarding claim 48, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 50, Nguyen further discloses not receiving a response to a packet transmitted via the first (unreliable multicast) transmission method. See col. 6 lines 62-65 and col. 9 lines 27-57.

Regarding claim 51, Nguyen further discloses configuring for communication with the first host (J) in accordance with the second transmission method (unicast). See col. 9 lines 50-57.

Regarding claim 52, Nguyen further discloses not receiving a response to a packet transmitted via the first (unreliable multicast) transmission method. See col. 6 lines 62-65 and col. 9 lines 27-57.

Regarding claim 53, Nguyen further discloses configuring for communication with the first host (host J) in accordance with the first (unreliable multicast) transmission method (col. 7 lines 32-35), provided a response to a packet transmitted via the first (unreliable multicast) transmission method is received (col. 6 lines 62-65). See also col. 9 lines 31-38 and 55-57.

Regarding claim 54, Nguyen further discloses receiving no response to a packet transmitted via the second transmission protocol. See col. 7 lines 10-12 and 25-37 and col. 9 lines 27-57.

Regarding claim 55, Nguyen further discloses configuring for communication with the first host (host J) in accordance with the first (unreliable multicast) transmission method. See col. 9 lines 35-39 and 55-57.

Regarding claims 56 and 57, Nguyen further discloses the first transmission method as multicast and the second transmission method as multicast, however interchanging these is inherent to Nguyen, because the ordering of the test would not interfere with the determination of which transmission method is possible. See col. 7 lines 18-25 and col. 9 lines 27-57.

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Regarding claims 58 and 59, Nguyen further discloses transmitting a predetermined ('series' see col. 6 and 7 lines 57-58 and 5-7) number of packets (messages) to the first host (host J) via the first (multicast) and the second (unicast) transmission methods until successful responses are received. See also col. 9 lines 27-57.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M Waxman whose telephone number is (703) 305-8086. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (703) 305-4378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Andrew M. Waxman


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 1/15/04